THE TRIAL OF HENRY HETHERINGTON

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Title: The Trial of Henry Hetherington

Author: Henry Hetherington

Release Date: March 05, 2012 [EBook #39055]

Language: English

Character set encoding: UTF-8

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THE TRIAL OF HENRY HETHERINGTON

By

Henry Hetherington

On an Indictment for Blasphemy

CONTENTS

A FULL REPORT OF THE TRIAL OF HENRY HETHERINGTON

THE TRIAL

INDICTMENT

Second Count:

Third Count:

Mr. Bult opened the proceedings

DEFENCE

OBSERVATIONS

Extract from The Sun Newspaper

"TO LORD DENMAN, ON THE LATE PROSECUTION FOR BLASPHEMY

A FULL REPORT OF THE TRIAL OF HENRY HETHERINGTON

ON AN INDICTMENT FOR BLASPHEMY,

LORD DENMAN AND A SPECIAL JURY,

ON TUESDAY, DECEMBER 8, 1840;

FOR SELLING HASLAM'S LETTERS TO THE CLERGY TO ALL DENOMINATIONS:

THE WHOLE OF THE AUTHORITIES CITED IN THE DEFENCE, AT FULL LENGTH.

LONDON:

PRINTED AND PUBLISHED BY HENRY HETHERINGTON, 1-26, STRAND;

AND SOLD BY ALL BOOKSELLERS.

1840

Price Sixpence.

To

JAMES WATSON,

BOOKSELLER,

THE FRIEND OF TRUTH, THE INFIDEL TO ERROR, AND THE LOVER OF LIBERTY,

THIS TRIAL

IS DEDICATED,

IN PROOF OF THE AFFECTIONATE ATTACHMENT THAT SUBSISTS BETWEEN TWO FRIENDS, WHO FULLY RECOGNISE AND ACT UPON THE PRINCIPLES AVOWED AND CONTENDED FOR IN THE FOLLOWING DEFENCE; AND AS A TRIBUTE OF ESTEEM,

TO GOD'S NOBLEST WORK--AN HONEST MAN!
BY HIS FAITHFUL FRIEND,
HENRY HETHERINGTON.

THE TRIAL

COURT OF QUEEN'S BENCH, December 8, 1840.

Sittings at Nisi Prius at Westminster, before Lord DENMAN and a Middlesex Special Jury.

PROSECUTION FOR BLASPHEMY.

THE QUEEN Versus HETHERINGTON.

This was a prosecution instituted by Her Majesty's Attorney-General, Sir John Campbell, against Henry Hetherington, bookseller, of 126, Strand, for the publication of a blasphemous libel.

INDICTMENT

Of Easter term, in the Third Year of the Reign of Queen Victoria. Middlesex:-- Be it remembered, that on Tuesday, the twenty-eighth day of April, in the third year of the reign of our sovereign lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, in the court of our said lady the Queen, before the Queen herself at Westminster, in the county of Middlesex, upon the oath of twelve jurors, good and lawful men, of the said county of Middlesex, now here sworn and charged to inquire for our said lady the Queen for the body of the same county; it is presented as followeth, that is to say, Middlesex to wit. The jurors for our lady the Queen upon their oath present, that Henry Hetherington, late of Westminster, in the county of Middlesex, bookseller, *being a wicked, impious, and ill-disposed person*, and having no regard for the laws and religion of this realm, but *most wickedly, blasphemously, impiously, and profanely devising and intending to asperse and vilify that part of the Holy Bible which is called the Old Testament*, on the third day of February, in the third year of the reign of our sovereign lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, at Westminster aforesaid, in the county aforesaid, did publish, and cause to be published, a certain scandalous, impious, and blasphemous libel, of and concerning that part of the Holy Bible which is called the Old Testament, containing therein, amongst other things, divers scandalous, impious, and blasphemous matters of and concerning that part of the Holy Bible which is called the Old Testament, according to the tenor and effect following, that is to say, "What wretched stuff this Bible (meaning that part of the Holy Bible which is called the Old Testament) is, to be sure! What a random idiot its author must have been! I would advise the human race to burn every Bible they have got. Such a book is actually a disgrace to ourang outangs, much less to men. I would advise them to burn it, in order that posterity may never know we believed in such abominable trash. What must they think of our intellects? What must they think of our incredible foolery? And we not only believe it, but we actually look upon the book as the sacred word of

God, as a production of infinite wisdom. Was insanity ever more complete? I for one, however, renounce the book; I renounce it as a vile compound of filth, blasphemy, and nonsense, as a fraud and a cheat, *and as an insult to God,"* to the great displeasure of Almighty God, to the great scandal, infamy, and contempt of that part of the Holy Bible which is called the Old Testament, to the evil example of all others, and against the peace of our said lady the Queen, her crown, and dignity.

Second Count:

And the jurors aforesaid, upon their oath aforesaid, further present, that the said Henry Hetherington, devising and intending as aforesaid, on the eleventh day of February and year aforesaid, at Westminster aforesaid, in the county aforesaid, did publish, and cause to be published, a certain other scandalous, impious, and blasphemous libel, of and concerning that part of the Holy Bible which is called the Old Testament, containing therein, amongst other things, divers scandalous, impious, and blasphemous matters of and concerning that part of the Holy Bible which is called the Old Testament, according to the tenor and effect following, that is to say, "One great question between you and me is, 'Is the Bible (meaning that part of the Holy Bible which is called the Old Testament) the word of God, or is it not? I assert that it is not the word of God, and you assert that it is; and I not only assert that it is not the word of God, but that it is a book containing more blunders, more ignorance, and more nonsense, than any book to be found in the universe," to the great displeasure of Almighty God, to the great scandal and contempt of that part of the Holy Bible which is called the Old Testament, to the evil example of all others, and against the peace of our lady the Queen, lier crown, and dignity.

Third Count:

And the jurors aforesaid, upon their oath aforesaid, further present, that the said Henry Hetherington, further devising and intending as aforesaid, on the day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, did publish, and cause to be published, a certain other scandalous, impious, and blasphemous libel of and concerning that part of the Holy Bible which is called the Old Testament, containing therein, among other things, divers scandalous, impious, and blasphemous matters of and concerning that part of the Holy Bible which is called the Old Testament, in one part thereof, according to the tenor and effect following, that is to say, "My object, and I fearlessly state it, is to expose this book (meaning that part of the Holy Bible which is called the Old Testament) in such a manner, that the children of the Stockport Sunday-school will reject it with contempt and in another part thereof, according to the tenor and effect following, that is to say,

"Such a book (meaning that part of the Holy Bible which is called the Old Testament) ought to be rejected by every one. The human race have been too long gulled with such trash. Moses was the inventor of this grand cheat; and although it may have done some little towards frightening people into what is called morality, the purpose for which Moses invented it is now out of date,

"to the great displeasure of Almighty God, to the great scandal and contempt of that part of the Holy Bible which is called the Old Testament, to the evil example of all others, and against the peace of our lady the Queen, her crown, and dignity."

[Witness] ALEXANDER KERR,

One sworn in court.

A true Bill.

On the names of the gentlemen summoned as Special Jurymen being called over, only five answered to their names.

The Attorney-General prayed a tales, when the following were sworn:--

The Jury.

Special--

Robert Savage, Esq., 11, Montaguplace, Bloomsbury.
James Arboine, merchant, 3, Brunswick-square.
William Fechney Black, merchant, Wilton-place.
Charles Frederick Barnwell, Esq., 44, Woburn-place.
Robert Eglinton, merchant, 29, Woburn-square.
Common Jurors--
Charles Ricketts, stove-maker, 5, Agar-street, West Strand.
William Polden, licensed victualler, Villiers-street, Strand.
John Osborne, confectioner, 401, Strand.
John Johnson Ruffell, painter, 24, Church-street, Soho.
Thomas Reid, baker, 24, Old Compton-street, Soho.
Charles Phillips, ivory brush-maicer, 20, King-street, Soho. J. Mahew, baker, 84, Greek-street, Soho.

Mr. Bult opened the proceedings

The Attorney-General said, this was an indictment found by the Grand Jury of Middlesex, for the publication of certain blasphemous libels. It appeared to him that all he should have to do, would be to prove the publication of the libels in question. He had not hesitated for one moment, when he found there were only five Special Jurymen, to pray a tales, because it was to him a matter of perfect indifference from what class of society the Jury was taken. It had frequently been laid down by the Judges, that to insult and vilify Christianity was against the law. Publications insulting religion, and addressed to the vulgar and uneducated, were most dangerous. He would call a witness who purchased these books in the defendant's shop, the defendant himself being present; and he should prove that the defendant was rated to that house. It gave him pain that it should be necessary for the Jury to hear such shocking attacks as were contained in this publication. It consisted of a series of letters, and each number was sold for a penny. It was "Letters to the Clergy of all Denominations" and was, in fact, an attack upon the

Holy Scriptures, particularly on the Old Testament. He should content himself with reading one extract.--(The learned Gentleman then read an extract from Letter 8, contained in the first count of the indictment.) Mr. Hetherington was in person to defend himself: they would hear what he had to say, and then he (the Attorney-General) would have an opportunity of again addressing them.

The following witness was then called and examined by Sir F. Pollock.

Alexander Kerr, a policeman, bought the "Letters to the Clergy," 5, 8, and 13, at the shop of the defendant, 126, Strand, on the 5th of February last. A young man served him. Knows defendant--he was standing on the threshold of the door at the time; has known him for the last three years; has seen him repeatedly at the shop. Paid one penny each for the letters.

Cross-examined by Mr. Hetherington.--Did not come in his uniform to purchase them. Came from directions he had received, not from any reputation the work had acquired. Did not read the fifth number or the eighth number of the book purchased at the shop. Stated at the Old Bailey, at the trial of Mr. Cleave, that he had read a copy, but not the one purchased of defendant. Curiosity induced him to read it. It did not shake his opinion--it did not make him burn his Bible; quite the opposite. He is a plainly-educated man. Was instructed to purchase all he could get at defendant's shop. Purchased other numbers, but did not read them. The work produced no effect on him to induce him to follow the recommendations of the author.

George Sherwill, collector of poor's-rate for the liberty of the Savoy, proved that defendant was rated for No. 126.

The libels were then put in and read: first, No. 8 of "Haslam's Letters to the Clergy of all Denominations," then 5 of the same work, and then 18.

The Attorney-General said, that was the case for the prosecution.

DEFENCE

My Lord--Gentlemen of the Jury,

"In rising to vindicate myself from the charge preferred against me in this indictment, I shall not attempt to justify the language alluded to by the Attorney-General; but I cannot refrain from expressing my surprise that the Government, after having encouraged the circulation of cheap knowledge upon all subjects,--in Penny Magazines and Penny Cyclopaedias,--should have placed me on my trial upon such a flimsy charge as this--for flimsy it undoubtedly is, when, out of a work comprising nearly 500 pages, the Attorney-General can only find one passage,--that in the eighth Letter, which is, I admit, expressed in very improper language,--whereon to found an indictment. I contend that it is impossible to say where a person is to stop in his inquiries. If a person is permitted to reject one tenet, another may reject another; and there is no reason why another should not go on, and reject the whole. In the whole work there is not one disrespectful word about Christianity; it is a rejection of the miracles ascribed to Moses in the Old Testament, which have been indignantly rejected by many learned men. The work was not intended as a scurrilous attack, but as an inquiry into the effects of the usages of society, founded upon the Old Testament. The object of Mr. Haslam was benevolent; and however much he might err, he was not criminal. He undertook to prove to the clergy that they were all in error that the doctrines they are teaching to the people are false, absurd, and irrational; that they are directly contrary to reason; and that, so long as they are preached to the people, so long will the people be vicious, wretched, and unhappy.

"The Attorney-General has only read the objectionable passages: I will read a few passages from Mr. Haslam's first Letter, which will enable the Jury to understand the nature of his work, and appreciate his motives. Having frankly stated his object, he proceeds:--

"You, no doubt, will feel concerned at this; you will very likely be angry with me for this daring attempt; you will call me Deist, Atheist, Infidel, and many other charitable epithets; you will feel unutterable things towards me; and I shall, no

doubt, be subject to the *extreme charity* of your *pious* congregations, who profess to 'love their neighbours as themselves,' and into whose minds you have crammed absurdity after absurdity, until they have scarcely room for another. I shall, no doubt, expose myself to all manner of ill-feeling and uncharitableness, and to calumnies and lies of every description; but shall these deter me from making known the convictions of iny mind? Shall these hinder me from exposing the errors and absurdities which I see interested men instilling into the minds of the people? Shall these prevent me from telling the people that they are deceived and imposed upon, and that their beggary, and want, and wretchedness, are the consequences of it? Shall these, in short, stop me from exposing the irrationalities which I see everywhere around me, and which occasion so much misery and unhappiness to my fellow-men? No, I tell you they shall not. That power which sent you into the world, sent me into the world also; and if you have a right to think and speak, I have a right to think and speak also. I have received an organization for the purpose as well as any of you; and as long as that organization remains unimpaired, so long will I tell the world what I think and feel.

"Why should any of you be angry with me? If I can prove your doctrines to be false and erroneous, what occasion is there for anger? What can you want with doctrines that are false? As honest men you ought immediately to abandon them. Instead, therefore, of being angry with me, you ought to have the very opposite feeling; for of what service can error and nonsense be to any man, or any set of men?

"But if I prove that your doctrines are not only false and erroneous, but that they occasion a vast amount of mischief to the people; that they occasion want and vice, and all manner of wickedness, and that, by removing them from the minds of the people, and substituting truths, all this want, and vice, and wickedness might be put an end to; if, I say, I prove this, why should you be angry with me for doing it? Surely you cannot wish the people to remain in a state of want, and vice, and wickedness; and yet, if you do not, why should you be angry at me for showing you the causes of them, and pointing out the means for their removal?

"You talk a great deal about morality and religion; you manifest in your pulpits a great anxiety to spread them amongst the people; but who can believe you to be sincere, when you resist every attempt to remove the causes of immorality and irreligion? You must know that effects cannot be removed without removing the causes of them, and by resisting the removal of these causes, you evidently show a disposition to keep the people in wickedness. This wickedness proceeds from certain causes. We have pointed these causes out to you, and if you will not remove them, does not that evidently show that you would rather that the people were wicked? Can there be conclusions more logical? What ridiculous cant it must be then to talk about morality and religion?

"My assumption then is, that the belief of every man is given to him *independently of his will*, and that, therefore, no just power can punish him for it.

"Your assumption is the opposite of this; you assert that the belief of every man depends upon his own will; *that he can either believe in the Bible, or not believe in the Bible*; that he can either be Christian or Jew, Mahomedan or Infidel, and that, therefore, God will punish him if he do not believe in a particular manner.

"These then, are our respective assumptions--and now let reason, 'the grand prerogative of man,' determine between us.

"Gentlemen, contrast the spirit of Mr. Haslam in this passage with the spirit of my prosecutors. He invokes Reason, 'the grand prerogative of man,' to determine between them; the Clergy, on the contrary, resort to prosecution to crush a reasoning opponent.

"I beg to inform you that I have read the Bible attentively, and that the more I read it the more reason I see for disbelieving it.

"The Bible asserts things which the whole of my senses tell me are false; and if my senses are independent of myself, how can I help disbelieving it?

"I know that God gave me my senses; but how can I believe God made the Bible, when it is directly opposed to these senses? To believe that God is the author of both, is to believe that God commits absurdities like yourselves; and to ascribe such a paltry and blundering performance as the Bible to that power which governs the universe is to dishonour that power, if any thing can dishonour it.

"But a man's belief is not only formed independently of his will, but it is often formed in direct opposition to it. I, for instance, once believed that the principles which I now hold were false; I used to argue against them, and even write against them, and my will to disbelieve them was so strong, owing to their apparent absurdity, that I used to be delighted when I imagined I had discovered a fresh argument with which I might overturn them. Continuing, however, to argue, I began to see their truth; I saw the principles more clearly; I found I had mistaken them very much; and at last I saw into them as clearly, as Cobbett used to say, as the sun at noon-day.

"Now here, you see, my will was to disbelieve these principles; but, after the process of reasoning was over, I was compelled to alter my will. This, then, being the case, was that will free? Could I have continued to disbelieve them, when my convictions told me they were true? And if I could not, where, I again ask, was my free will?

"Here, then, is reasoning enough to prove the truth of my assumption; and now I beg to call your attention to its peculiar effect upon your various systems of religion.

"In conclusion, therefore, I beg to call upon you to defend your doctrines

from the serious charges I have here made, and shall continue to make against them. You may either do it by writing, or by verbal discussion, whichever you please. But do not continue to act so meanly and dishonourably, as to preach doctrines to the people which have over and over again been proved to be false and absurd, and which none of you are able to defend."

Gentlemen, you will see by these passages that Mr. Haslam appeals to reason. He calls upon the Clergy to defend their doctrines, telling them they may either do it "by writing, or by verbal discussion." The Government, however, disregarded this appeal; they ought to have called upon the Bishop of Exeter, and other well-paid bigots of his class, to come forward and confute Mr. Haslam. But instead of this they prosecute a bookseller, who had never read a line of the book until this prosecution. They ought to meet Mr. Haslam with his own weapons; and it is disgraceful to the Government, which has always advocated the diffusion of cheap knowledge, to submit to the taunts of the Bishop of Exeter, and other bigots like him, by instituting these prosecutions for blasphemy. However we may disapprove of Haslam's doctrines, we cannot but perceive that he is sincere in his belief.

Gentlemen, I will, as I proceed, prove to you that the convictions of a tat which he now believes to be true to have been false. Gentlemen, I readily admit that the passage in the eighth number is offensively worded; but I will prove that the free exercise of the right of inquiry is not, and ought not to be, an offence in law. I will also call your attention to the hardship of a general bookseller being held responsible for every book that he sells, and will call your attention to the oath you have taken, and claim from you that acquittal to which I am entitled. I claim no exemption from punishment if I sell any obscene publication,--anything calculated to corrupt or demoralize society,--or any attacks upon a man's private character; but in cases of the discussion of abstract truths, is a man to be punished for the convictions of his mind, which are not in the power of his will? It is too bad to bring a man into a court of justice on account of a few solitary passages in a work of this nature.

Gentlemen of the Jury, our great and popular moralist, Dr. Johnson, has declared that "Truth is the basis of all excellence." This axiom is so clear and indisputable, that no intelligent man can hesitate to adopt it. How, then, can the truth, upon the various subjects interesting to human beings, be elicited? Not by letting interested men think for us, but by judging for ourselves--by collecting and examining facts and arguments, and communicating to society the impressions they respectively make upon our minds. There is no effectual mode of arriving at truth, but by the exercise of the right of free inquiry, and the unrestricted publication of the result of such inquiry. This right has been deemed of pre-eminent importance from time immemorial, and by men of all sects and parties; and although

corrupt and tyrannical rulers in the past ages of the world have prosecuted honest men, and endeavoured to suppress the truth, you will find that in every case to which I shall call your attention, the intrepid advocates of truth have ultimately triumphed. Now, Gentlemen of the Jury, I will proceed at once to fortify myself with a few authorities,--not that I think truth depends upon great names, however numerous and illustrious they may be, but because I am determined to advance nothing that is not, in my opinion, strictly true, and sanctioned and maintained by the greatest intellects of the age.

Gentlemen, I will begin with a Bishop.

"God has given us rational faculties to guide and direct us, and we must make the most of them that we can; we must judge with our own reasons, as well as see with our own eyes; and it would-be very *rash, unmanly, and base* in us to muffle up our own understandings, and deliver our reason and faith over to others blindfold."--*Bishop Burnett's Thirty-nine Articles*, A. 39.

"Gentlemen of the Jury, will you, by your verdict, consign a man to a dungeon, because he is too honest and independent to act a '*rash, unmanly, and base*' part? Will you declare, by your verdict, that henceforth we shall not '*judge* with our own reasons, nor *see* with our *own eyes*?' I feel confident you will not.

"*Dr. Whitby*, in his *Last Thoughts*, tells us, "that belief or disbelief can neither be a virtue or a crime, in any one who uses the best means in his power of being informed.

"If a proposition is *evident*, we cannot avoid believing it; *and where is the merit or piety of a necessary assent?* If it is *not evident*, we cannot help rejecting it, or doubting of it; *and where is the crime of not performing impossibilities, or not believing what does not appear to us to be true?*"

Gentlemen of the Jury, can you dispute the truth of the passage I have quoted from Dr. Whitby? Will you, by your verdict, pronounce it to be "*a crime* not to perform *impossibilities*, and endeavour to *force us to believe* what does not appear to us to be true?" Gentlemen, you cannot do it. Let us briefly trace the operations of the human mind, and we shall find that the mind is governed by a law of necessity. Are we not definitely and necessarily' affected by the circumstances which surround us? Have we power to avoid receiving impressions from the objects presented to us? If we have not, which is now universally admitted by intelligent men, then the act of *perceiving*, or *forming ideas*, is a necessary mental operation. Can we, for instance, have an idea of a man when a monkey is presented to us? Or of colours other than those which are placed before our visual organs? We cannot, if the eye be not diseased, perceive red to be green, or green red. The power of *perception*, therefore, appears to be perfectly involuntary--it is governed by a law of necessity.

The next operation of the mind is to form a judgment of the things per-

ceived; and it is these two things--*perceiving* and *judging*--which constitute a man's knowledge or experience. If two bodies of different magnitudes are presented to our view, are we not compelled to judge of them according to the impression they respectively make upon the mind? It is precisely the same with *men, manners, and opinions.* Must we not conclude that things are what they appear to be, till we know the contrary? I would appeal to your own experience, Gentlemen, whether you do not invariably and necessarily judge of men and things according to their inherent or imaginary qualities? Some men, indeed, are puzzled to account for the diversity of judgment observable where different men examine the same subject, and from the same data; but this circumstance is easily accounted for. It results simply from this fact, that men judge of things precisely as they appear to them: and the different judgments formed of the same things are ascribable wholly to the different degrees of strength in the power of perception, and to the extent and variety of knowledge previously acquired. *Perception and judgment*, therefore, appear to be involuntary and necessary.

Gentlemen, if this be true, is a man who has arrived at conclusions adverse to the *received opinions* of society a fit subject of punishment? If not, how much less so is the bookseller who merely sells his book?

Mr. Haslam calls upon the Clergy to enter into the controversy with him, and to let *reason* decide between them. Why do not the Government, and the learned Attorney-General, adopt Mr. Haslam's recommendation, instead of instituting a prosecution against a bookseller who never read a line of the book till his attention was called to it by this unjust prosecution? Why do not the Government,--who patronise penny literature--who affect to be friendly to free discussion, call on the Bishop of Exeter, and other well-paid bigots, to defend the Bible against the assaults of Mr. Haslam? For the learned Attorney-General to attempt to crush the free expression of opinion by prosecutions of this nature, is most unjust and impolitic. I maintain that two out of the three passages read would not support the indictment at all; and the third passage--set forth in the first count of the indictment--so far from being blasphemy, declares that the author *rejects the Bible, because he looks upon it as containing statements that were insulting to God.* In the passage immediately following that which is prosecuted, the author admits that the book contains some good precepts, but declares that he deems mere precepts to be useless. I will take the liberty of reading the passage to the Jury.

"I allow that there are some good precepts in it, but I contend that these precepts are useless. I contend that *all* precepts are useless. Of what use have all the precepts in the world been to the human race? Have they made man wiser, or better, or happier? Have they lessened the amount of his vice and his misery? I contend that they have not. Vice and misery have been increasing, although these

precepts have been more and more preached to the people. Precepts, reverend ministers of the gospel, are mere wind; they are as empty as the vapour issuing from the kettle's spout; they have no effect whatever in making man wise, or good, or happy; the present wretchedness of the world is a proof of it. The way, reverend sirs, to make man wise, and good, and happy, is, not to preach precepts to the people, but to abolish the present irrational system of individual property; to arrange society in such a manner that the interest of one man will be the interest of the whole. Until this be done, all the precepts in the world, preached, too, with all the eloquence in the world, will never remove man from his present deplorable condition."

Gentlemen, you will perceive by this extract that the author is a socialist. It is not necessary for me to maintain that he is right in these opinions. All that I have to do is to show that these opinions were sincerely believed by Mr. Haslam. I have clearly shown that belief is involuntary. No man can tell one day what his belief will be the next. In my own person I furnish an instance of this. I married young, and having formed in my mind a standard of ideal perfection, I determined that my children should equal that standard, as far as human means could make them. I tried to effect my object by severity. Acting upon wrong principles, of course, I failed; but at that time I was young and ignorant, and believed myself to be right. However, a friend who knew better than myself, and who had had much experience, lent me Miss Williams's Letters on the Philosophy of Education, and the reading of that book put new ideas into my mind. It produced, in fact, a mental revolution;--I changed my opinion and my system, and did so with the happiest success. From that time I banished coercion as a principle of education. I repeat, then, that belief is not voluntary, and that compulsion is not a good means of producing good belief or good conduct.

Gentlemen, I will now quote the opinion of Bishop Marsh, as to the importance of free inquiry. I quote from the Bishops as persons of the greatest authority on this subject, far greater than the Attorney-General, or any of his legal brethren.

"Investigation, it is said, frequently leads to doubts where there were none before. So much the better. If a thing is false, *it ought not to be received*; if a thing is true, *it can never lose in the end by inquiry*."--*Bishop Marsh's First Lecture.*

Gentlemen, you have heard the opinion of Bishop Marsh. You cannot suppose that the Bishops are adverse to the Church--they are great supporters of it, and so, perhaps, might I be if I got so much by it--(a laugh)--as like circumstances produce like effects. Well, Gentlemen, Bishop Marsh maintains that "if a thing is *false*, it ought not to be received; if it is true, it can never lose in the end by inquiry." Why, then, should the Attorney-General prosecute a person who rejects a thing that does not appear to him to be true?

Gentlemen, let me now submit to your attention the opinion of Sir William

Temple.

Sir William Temple says, "They may make me do things which are in my power, and depend on my will; but to believe *this* or *that* to be true depends not on my will, but upon the light, and evidence, and information which I have. And will civil discouragements and incapacities, fines and confiscations, stripes and imprisonment, enlighten the understanding, convince men's minds of error, and inform them of the truth? Can they have any such efficacy as to make men change the inward judgment they have framed of things? *Nothing can do this but reason and argument*: this is what our minds and understandings will naturally yield to, but they *cannot* be compelled to believe any thing by outward force. So that the promoting of *true* religion is plainly out of the magistrate's *reach*, as well as beside *his office*."

Here, Gentlemen, you have the opinion of Sir William Temple, that men cannot be forced to believe anything by outward force and persecution, so that the promoting of true religion is out of the magistrate's power, as well as beside his office. This is a most true and proper declaration; and if the Attorney-General had reflected upon this passage, I am sure he must have fully appreciated its truth, and then this prosecution would not have been instituted. I appeal to the learned Attorney-General, whether my being ruined and sent to a dungeon will alter the state of things? Will it alter the opinion of Mr. Haslam? Will it make me believe that I ought to be prosecuted for selling this book; or that a man has not a right to promulgate his opinions? I am placed in an awkward position in having to defend a man's right to publish, while I dissent from some of Mr. Haslam's opinions, and the manner in which he has thought proper to express them. I have been told that the Attorney-General is a good kind of a man, who has no wish to press severely upon persons in my situation; and some friends--not my true friends--have urged me to forward a memorial to him on the subject of this prosecution. Now what could I do? There was no way of inducing the Attorney-General to stay this prosecution, but by pleading guilty; and although I am well aware that your verdict, if adverse to me, will be my ruin, yet I would rather terminate my existence on the floor of this court than plead guilty to this lying indictment, or admit that I am a wicked, malicious, and evil-disposed person, when I know that to the best of my judgment and ability I am an upright, honest, well-intentioned man. If I believed myself to be the man described, in the indictment--which I must do before I could consent to plead guilty--I would fly to the uttermost parts of the earth; for a man is totally destroyed when he has lost all feeling of self-respect, and the esteem and regard of his friends and associates.

Gentleman of the Jury, I have yet a host of authorities before me, but I will not waste time by quoting them; as I am convinced you must now be quite satisfied, from what I have already adduced, that every Englishman has an undoubted

right to investigate all subjects--whether religious or political--and to publish the result of the investigation for the benefit of society at large; but, Gentlemen, in closing what I have to say on this part of the subject, I beg to lay before you two striking and convincing passages from Lord Brougham and Dr. Southwood Smith--two of the most intellectual and eminent individuals of the present day.

Gentlemen, the first passage I will quote is from Dr. Southwood Smith, who strikingly and beautifully describes the proper boundary of human investigation; and I beg the particular attention of the learned Attorney-General to this passage.

"There is no proper boundary to human investigation," says the doctor, "but the capacity of the human mind. Whatever the faculties enable it to understand, it ought to examine without any restraint on the freedom of its inquiry, and without any other limit to its extent than that which its great Author has fixed, by withholding from it the power to proceed farther. When the means of conducting the human understanding to its highest perfection shall have become generally understood, this freedom of inquiry will not only be universally allowed, but early and anxiously inculcated, *as a duty* of primary and essential obligation."

Gentlemen, I now beg you to listen to the extract I am about to read from *Lord Brougham's Inaugural Address to the University of Glasgow.*

"As men will no longer suffer themselves to be led blindfold in Ignorance, so will they no more yield to the vile principle of judging and treating their fellow-creatures, not according to the intrinsic merit of their actions, but according to the accidental and involuntary coincidence of their opinions. The great truth has finally gone forth to the ends of the earth, *that man shall no more render* ACCOUNT TO MAN FOR HIS BELIEF, OVER WHICH HE HAS HIMSELF NO CONTROL.

"Henceforward nothing shall prevail upon us to praise or to blame any one for that which he can no more change than he can the hue of his skin or the height of his stature. Henceforward, treating with entire respect those who conscientiously differ from ourselves, the only practical effect of the difference will be, to make us enlighten the ignorance, on one side or the other, from which it springs, by instructing them, if it be theirs, ourselves, if it be our own; to the end that the only kind of unanimity may be produced which is desirable among rational beings,--the agreement proceeding from full conviction after the freest discussion."--*Lord Brougham.*

Gentlemen, after hearing these splendid passages, will it be possible for you to sanction a renewal of persecution to crush freedom of opinion?

Gentlemen of the Jury,--I now come to the next point in the argument. Having, I hope, successfully proved the right of free inquiry and the free publication of opinions, I will proceed to show, by a reference to past events, that it is highly important that this right should be preserved, and handed down to our latest posterity unimpaired. Gentlemen, it has been a uniform practice, from the earliest

records of time, to stigmatize those who introduce new truths, or who attack the existing institutions of a country, as infidels, and to fix upon them all sorts of opprobious epithets.

"In all ages *new doctrines* have been branded as impious; and Christianity itself has offered no exception to this rule. The Greeks and Romans charged Christianity with 'impiety and novelty.' In *Cave's Primitive Christianity* we are informed 'that the Christians were everywhere accounted a pack of *Atheists*, and their religion *the Atheism.*' *They were denominated; 'mountebank impostors,' and 'men of a desperate and unlawful faction.' They were represented as 'destructive and pernicious to human society,' and were accused of 'sacrilege, sedition, and high treason.' The same system of misrepresentation and abuse was practised by the Roman Catholics against the Protestants at the Reformation. Some called their dogs Calvin; and others transformed Calvin into Cain,' In France, 'the old stale calumnies, formerly invented against the first Christians, were again revived by Democharés, a doctor of the Sorbonne, pretending that all the disasters of the state were to be attributed to Protestants alone.'"--*Combe on the Constitution of Man.*

In our own enlightened country, where the importance of truth--and free inquiry as a means of its attainment--is beginning to be appreciated, a different practice should prevail. We ought not to persist in this unmanly course. Recollect, Gentlemen, the Prophets of the Jews were *blasphemers* against the established religions of their day. Did that deter them from denouncing the idolatry and false religions of the surrounding nations? Elijah is represented as ridiculing the God of the Moabites in a most offensive manner: "*And it came to pass at noon, that Elijah mocked them and said, 'Cry aloud: for he is a god; either he is talking f or he is pursuing, or he is in a journey, or peradventure he sleepeth and must be awaked.*'" 1 Kings xviii. 27. And in Judea, Jesus and his Apostles were charged as blasphemers against Judaism, or the religion established by Moses. We have a remarkable proof of this in the case of Stephen, recorded in the 6th and 7th chapters of the Acts of the Apostles.

"And they were not able to resist the wisdom and the spirit by which he spake.

"Then they suborned men, which said, We have heard him speak *blasphemous* words against Moses, and against God.

"And they stirred up the people, and the elders, and the scribes, and came upon him, and caught him, and brought him to the council,

"And set up false witnesses, which said, This man ceaseth not to speak blasphemous words against this holy place and the law:

"For we have heard him say that this Jesus of Nazareth shall destroy this place, and shall change the customs which Moses delivered us."--Acts vi, 10--14.

And Stephen defending himself before the Council, boldly asks them,

"Which of the prophets have not your fathers persecuted? And they have slain them which showed before of the coming of the Just One; *of whom ye have* BEEN NOW THE BETRAYERS AND MURDERERS.

"When they heard these things they were cut to the heart, and they gnashed at him with their teeth.

"And they cried out with a loud voice, and stopped their ears, and ran upon him with one accord,

"And cast him out of the city, and stoned him." Acts vii; 51, 52, 54,57,58.

Now, Gentlemen, is it just or politic that the proclaimers of new truths, and new systems, should be treated in this manner? Would it not be far more rational to hear what a man has to say, and answer him, than to "gnash at him with the teeth," to "stop your ears," to "run at him with one accord," and to "stone him to death?" Can you, Gentlemen, by your verdict give your sanction to a course of proceeding similar to that which deprived Stephen of life? All persecution is the same in spirit--highly unjust and impolitic--whether it be exercised against the Apostle Stephen, or the humble individual who now addresses you.

Gentlemen, the supporters of the established religion in the days of the Apostles, pursued the same course that the bigots of the present day are pursuing. They applied to the High Priest, or to the Attorney-General of that day, to prosecute Stephen for *blasphemy*, and stirred up the people. In the present case the Bishop of Exeter did not stir up the people, but he stirred up the Government. He sent a packet of papers to Lord Normanby, who handed them to the Attorney-General, and he appears to have considered it to be his duty to institute the present prosecution. The learned Attorney-General, as was the case with the priests and rulers of the Jews, would not allow any discussion to take place that was likely to change existing customs. I will do the Government the justice to say, however, that I do not believe they are disposed to put a stop to the full investigation of any subject, if conducted with decency. I readily admit that the passage in the eighth number of Mr. Haslam's Letters is highly objectionable in phraseology--it is in very bad taste--but is that a reason for sending a bookseller to prison, because he has sold a book written in bad taste? It cannot be--all published works must be left to the fiat of public opinion to determine their merit.

Gentlemen, the same spirit was evinced by the wicked and corrupt rulers of the Jews against the founder of Christianity. They sought false witnesses against him; but at length, Jesus having spoken out explicitly, the High Priest rent his clothes, saying, "*He hath spoken blasphemy; what further need have we of witnesses? Behold, now ye have heard his blasphemy. What think ye? They answered and said*, **HE is guilty to death.**" (Matt. 26; 65.) Will you, Gentlemen--a Christian Jury--considering Christianity part and parcel of the law of the land, by your verdict say, that Jesus was rightly treated by the Jews? Ought the constituted authorities

of that day to have obstructed the glorious truths of Christianity, and have put to death the Messenger of Man's salvation? Unless you deliver a verdict of acquittal, in my case, you in effect sanction and justify all the cruelties exercised against Jesus and his Apostles by the rulers of the Jews?

The learned Counsel for the prosecution will, perhaps, think that there is no analogy between the cases cited and my own case--that Jesus and his Apostles introduced truths of the greatest magnitude and importance, while I am indicted for selling a book that denies the truth of the Jewish Scriptures. Why, Gentlemen, Dr. Adam Clarke says, "There is some reason to fear that they (the Jews) *no longer consider the Old Testament as divinely inspired, but believe that Moses had recourse to pious frauds*." And, Gentlemen, Jesus and his Apostles denied the *truth* of the Jewish Scriptures--*as understood by the rulers of the Jews*,--and for denying the orthodox and received sense of the Jewish Scriptures were accused of blasphemy, and received the fate of martyrs! That cannot be disputed. Was it just, then,--was it politic, I ask, to settle this controversy by force and cruelty? To *scourg or imprison, and destroy* those glorious men who had important truths to impart to the world? If England has embraced Christianity--and we are not a nation of hypocrites--let us act upon the spirit of his religion. He says plainly and emphatically, that we are not to root up error by force or cruelty.

In the parable of the tares of the field, he sets forth our duty. "The Kingdom of Heaven," he says, "is likened unto a man who sowed good seed in his field; but while men slept, his enemy came and sowed tares among the wheat, and went his way. But when the blade was sprung up, and brought forth fruit, there appeared the tares also. So the servants of the householder came and said unto him, Sir, didst thou not sow good seed in thy field? from whence then hath it tares! He said unto them, An enemy hath done this. The servant said unto him, Wilt thou then that we go and gather them up? But he said, *Nay; lest while ye gather up the tares, ye root up also the wheat with them.* **Let both grow together until the harvest**." Matt, xiii; 25--30.

When his disciples demanded an explanation of this parable, he said, "The field is the world: the good seed are the children of the Kingdom: but the tares are the children of the wicked one: the enemy that sowed them in the devil: the harvest is the end of the world; and the reapers are the Angels. The Son of Man shall send forth his Angels, and They shall gather out of his Kingdom all things that offend, and them which do iniquity." Matt, xiii; 38, 39. 41.

Gentlemen, how unjust and impolitic, then, are these prosecutions. Do they stop the progress of truth? Persecution for matters of opinion is the same in every case--impolitic--for it never yet succeeded in stopping the circulation of a correct opinion or a prohibited book? Why should *Christians* prosecute men for disbelieving the *Jewish* Scriptures, when, according to Dr. Adam Clarke, the Jews dis-

believe parts of the Old Testament themselves? Why should professed Christians take up and defend that which the Jews themselves reject? Paul, himself, teaches us that the Jewish law has been superseded by a superior system. He tells us that the Jewish law "was our schoolmaster to bring us unto Christ (or Christianity), but after that we are no longer under a schoolmaster." Gal. iii; 24, 25.

I can assure the Jury that if Haslam's Letters to the Clergy is an improper book, it cannot be put down by prosecution; it is far better to leave it to coldness and neglect. I could give many proofs of this. I am myself an instance of the inefficacy of prosecution. I have been prosecuted, as I think with great injustice, for the publication of a paper called *The Poor Man's Guardian.* Five hundred men was imprisoned for selling it; I was twice imprisoned, and the circulation of the paper, thus prosecuted, more than paid my losses; but at last, in the Court of Exchequer, before Lord Lyndhurst, the Jury found a verdict in my favour, for I convinced the Jury that the publication was one which was not against the law.

The Attorney-General: The Jury found that it was not a newspaper.

Precisely so: and as soon as it was known that the *Guardian* was a legal paper, it went down at once. I could not sell copies enough to pay the expenses (a laugh). It has been just the same with these Letters; they have remained unsold till this prosecution, but as soon as it was known that they were prosecuted, the man who published them could not print them fast enough.

Gentlemen, the enlightened Christians of the present day, by sending out Missionaries to propagate Christianity, are guilty of blasphemy against the established religion of heathen countries. It would be considered in England very unjust and cruel if the natives were to seize our Missionaries, and imprison and ill-treat them. If in this country we are in the habit of sending out Missionaries to proclaim new truths to foreign countries--is it not grossly inconsistent and unjust, while doing this, to punish persons for free investigation at home? In a recent case, cannon have been fired upon the natives of one of the Tonga Islands, because they would not receive these Missionaries. The argument of these Christians is, that truth must be propagated all over the world--but why stop inquiry at home, while suffering a British man-of-war to fire upon these islanders, because they would not receive the new truths of the Missionaries in the way they wished? Is it wise--is it not highly impolitic, then, to attempt to check the progress of intellect and human improvement? Can it be done by persecution and imprisonment? No, Gentlemen, the spirit of inquiry is abroad among the industrious millions--no subject is too sacred for their investigation. The mind has burst the fetters imposed on it, in the days of by-gone ignorance, by the cupidity of interested and hypocritical priests, who are fully aware that their principles and practices cannot stand the test of free inquiry. Even Mr. Wesley, the founder of Methodism, saw that his darling system must ultimately fall before the searching eye of philosophy

and truth.

From the Life of the Rev. John Wesley, published in 1792.

"Dear Sir,--For your obliging letter, which I received this morning, I return you thanks.

"Our opinions, for the most part, perfectly coincide respecting the stability of the connexion after my head is laid in the dust. This, however, is a subject about which I am not so anxious as you seem to imagine; on the contrary, it is a matter of the utmost indifference to me, as I have-long foreseen that a division must necessarily ensue, from causes so various, unavoidable, and certain, that I have long since given up all thoughts and hopes of settling it on a permanent foundation. You do not seem to be aware of the most effective cause that will bring about a division. You apprehend the most serious consequences from a struggle between the preachers for power and pre-eminence, and there being none among them of sufficient authority or abilities to support the dignity, or command the respect, and exact the implicit obedience, which is so necessary to uphold our constitution on its present principles. This, most undoubtedly, is one thing that will operate very powerfully against unity in the connexion, and is, perhaps, what I might possibly have prevented, had not a still greater difficulty arisen in my mind. I have often wished for some person of abilities to succeed me as the head of the church I have, with such indefatigable pains and astonishing success, established; but, convinced that none but very superior abilities would be equal to the undertaking, was I to adopt a successor of this description, I fear he might gain so much influence among the people as to usurp a share, if not the whole, of that absolute and uncontrollable power which I have hitherto, and am determined I will maintain so long as I live: never will I bear a rival near my throne. You, no doubt, see the policy of continually changing the preachers from one circuit to another, at short periods: for should any of them become popular with their different congregations, and insinuate themselves into the favour of their hearers, they might possibly obtain such influence as to establish themselves independently of me and the general connexion. Besides, the novelty of the continual change excites curiosity, and is the more necessary, as few of our preachers have abilities to render themselves in any degree tolerable any longer than they are now.

"The principal cause which will inevitably effect a diminution and division in the connexion after my death, wilt be the failure of subscriptions and contributions towards the support of the cause; for money is as much the sinews of religious as of military power. If it is with the greatest difficulty that even I can keep them together, for want of this very necessary article, I think no one else can. Another cause, which, with others, will effect the division, is the disputes and contentions that will arise between the preachers and the parties that will espouse their several causes; by which means much truth will be brought to light,

which will reflect so much to their disadvantage, that the eyes of the people will be opened to see their motives and principles; nor will they any longer contribute to their support, when they find all their pretensions to sanctity and love are founded on motives of interest and ambition. The consequence of which will be, a few of the most popular will establish themselves in the respective places where they have gained sufficient influence over the minds of the people: the rest must revert to their original humble callings. But this no way concerns me: I have attained the object of my views, by establishing a name that will not soon perish from the face of the earth; I have founded a sect which will boast my name long after my discipline and doctrines are forgotten.

"My character and reputation for sanctity is now beyond the reach of calumny; nor will any thing that may hereafter come to light, or be said concerning me, to my prejudice, however true, gain credit.

"'My unsoiled name, the austereness of my life,
Will vouch against it,
And so the accusation overweigh
That it will stifle in its own report,
And smell of calumny.'

"Another cause that will operate more powerfully and effectually than any of the preceding is, the rays of Philosophy, which begin now to pervade all ranks, rapidly dispelling the mists of ignorance, which have been long, in a great degree, the mother of devotion, of slavish prejudice, and the enthusiastic bigotry of religious opinions. The decline of the Papal power is owing to the same irresistible cause; nor can it be supposed that Methodism can stand its ground when brought to the test of Truth, Reason, and Philosophy."

"City-road, Thursday morning. J. W." (1)

1. As my defence had extended to a great length, I was anxious to spare the time of the Jury, and did not, therefore, trouble them with the whole of this letter. I merely described the nature of it, and read the last paragraph, being the only portion applicable to my purpose; but as I deem the letter a valuable curiosity, and worthy of preservation, I have inserted it entire.

Gentlemen, you see Mr. Wesley anticipated that his system must yield to philosophy, and do you believe the Church of England can stand when brought to the test of "truth, reason* and philosophy?" A church that will keep a man in prison nearly two years for 5s. 6d. church-rates? If you suppress Biblical examination,

and the free publication of opinion, the next step will be to stop inquiry into the *practices* of the Church, and to make us all the fettered slaves of the priesthood. No, Gentlemen; Methodism and Church-of-Englandism are doomed to fall; and such will be the fate of all systems not based upon the rock of truth. But, Gentlemen, that is no reason for suppressing inquiry, because the more the truth is investigated, the more beautiful it will appear.

Gentlemen, has not our country raised itself to the highest pinnacle of human greatness as regards civilization and the arts? What rapid strides--what useful discoveries it has made in the arts and sciences! Consider its vast achievements in steam navigation--in railroad travelling--in the improvement of machinery. To such perfection have they brought machinery, that it is now almost capable of superseding human labour altogether. If all these magnificent improvements in the arts and sciences are good to society, and have resulted from free inquiry--why hesitate to apply it to social, religious, and political subjects? Are we ever to remain drivellers in religion? The true crime is that Haslam's Letters are sold at a penny. Why should two-guinea blasphemers be tolerated and penny ones prosecuted? How can the learned Attorney-General, whose shelves are, doubtless, adorned with Drummond's Academical Questions, Voltaire, Gibbon, Volney, and Shelley, uphold this prosecution; and what must that law be which can find the crime, not in the contents of the book, but in the fact of its being sold for a penny? They might for two guineas buy a magnificent book full of blasphemy. The Attorney-General, in his opening speech, had told the Jury that such works were "dangerous to society if addressed to the *vulgar, the uneducated*, and the *unthinking*" but I will appeal to his own witness, who had read the book, and on whom, an uneducated man, it had proved inoperative. It had done no mischief: and I hope the Jury will not consign me to a dungeon for having sold a book which it has been proved by his own witness has done no mischief. Paul said the Bæreans were more noble than those of Thessalonica, because they searched the Scriptures daily to see whether these things were so or not. The Attorney-General is about to punish me for doing the same thing. Christ himself said, the truth shall make you free; but the Attorney-General says the truth--or that which you believe to be the truth--shall make you a prisoner. In the parable of the tares, to which I have already referred, Jesus expressly forbade the rooting up of the tares, lest the wheat should be rooted up also. He did not recommend persecution, but said let them both grow together until the harvest. These passages are sufficient to show that persecution is opposed to the whole spirit of Christianity.

Gentlemen, I will now call your attention to the law on the subject. In entering upon this topic, of course I shall labour under a great disadvantage, because I am unacquainted with legal technicalities and cases. I will commence, therefore, by reading to you the opinion of Chief Baron Eyre, in his Charge to the Grand

Jury, on the commission for the trial of persons on the charge of High Treason, in 1794, in the course of which he made use of these liberal expressions:--

"All men may, nay, all men must, if they possess the faculty of thinking, reason upon every thing which sufficiently interests them to become objects of their attention; and among the objects of attention of freemen, the principles of government, the constitution of particular governments, and, above all, the constitution of the government under which they live, will naturally engage attention, and provoke speculation. *The power of communication of thoughts and opinions is the gift of God; and the freedom of it is the source of all science*--the first fruits, and the ultimate happiness of all society; and therefore, it seems to follow, *that human laws ought not to interpose, nay, cannot interpose, to prevent the communication of sentiment and opinions, in voluntary assemblies of men.*"

Here, Gentlemen, we have an eminent legal authority, in addition to the Bishops I have quoted, who declares that "human laws *ought not to inter-pose*, nay, cannot interpose, *to prevent the communication qf sentiment, and opinion.*" Under what law then can I be condemned? This prosecution goes a step further than any other has gone; it in effect declares that you shall not dispute the truth of the Jewish Scriptures, which I have already shown are superseded by the introduction of Christianity. Paul declares that the Jewish law was only intended to be our schoolmaster to bring us to Christianity; but if Christianity, as is asserted, be part and parcel of the low of England, even then this prosecution has not a log to stand upon. In the "Life and Correspondence of Major Cartwright," however, there is a letter from Jefferson, himself an eminent lawyer, and President of the United States of America, who had deeply studied the laws of England, in which he has proved the fallacy of the notion that Christianity is part of the common law, by showing that the common law had existed long before Christianity was introduced into this country; and that the axiom had its origin and foundation in a misquotation and mistranslation of a decision of Justice Prisot, recorded in the Year Book, substituting the words *Holy Scriptures* for *Ancient Scriptures.* Jefferson denominates it a "judiciary forgery," and I hope your Lordship will to-day confirm Jefferson's view, and put an end to this illegal iniquity.

Gentlemen, the passage I am about to quote from Jefferson's letter to Major Cartwright, contains the opinion of Justice Prisot, in old French, but I have procured a literal and a free translation, which I will read to the Jury. Your Lordship can refer to the original in the Year Book.

"I was glad to find, in your book, a formal contradiction, at length, of the judiciary usurpation of legislative powers; for such the judges have usurped in their repeated decisions that Christianity is a part of the common law. The proof of the contrary which you have adduced is incontrovertible; to wit, that the common law existed while the Anglo-Saxons were yet Pagans; at a time when they had

never yet heard the name of Christ pronounced, or knew that such a character had ever existed. But it may amuse you to show when, and by what means, they stole this law in upon us. In a case of quare impedit, in the year-book, 34 H. 6, fo. 38, (1458,) a question was made, how far the ecclesiastical law was to be respected in a common law court? And Justice Prisot, c. 5, gives his opinion in these words:--

"'A tiel leis que ils de seint eglise ont en *ancien scripture*, covient
"'*To such laws which they of the holy church have in ancient writing, it is proper*
à nous à donner credence; car ceo common ley sur quels touts manners
for us to give credence; because that is the common law on which all sorts of leis
sont lor dés--et auxy, Sir, nous sumus obligés de conustre leur ley de saint
laws are founded--and thus, Sir, we are obliged to know their law of the holy
eglise; et semblablement ils sont obligés de conustre nostre lev: et, Sir, si
church; and in like manner they are obliged to know our law; and, Sir, if
poit apperer or ù nous que Tevesque ad fait come un ordinary fera en tiel
it can be shown thus to us that the bishop has done as a layman would in such
cas, adonq nous devons ceo adjuger bon, ou auterment nemy,' &c.(1) See S. C,
a case, then we ought this to judge good, or otherwise not at all.

1. *Translation read to the Jury.*

Fitzherbert's Abr. qu. imp. 89. Brown's Abr. qu. imp. 12. Finch, in his first book, c. 3, is the first afterwards who quotes this case, and misstates it thus, 'To such laws of the church as have warrant in *holy scripture* our law giveth credence,' and cites Prisot, mistranslating 'ancien scripture' into 'holy scripture;' whereas Prisot palpably says, 'to such laws as those of holy church have in *ancient writing* it is proper for us to give credence to wit, to their ancient written laws. This was in 1613, a century and a half after the dictum of Prisot. Wingate, in 1658, erects this false translation into a maxim of the common law, copying the words of Finch, but citing Prisot. Wingate's Maxims, 3; and Sheppard, tit. 'Religion in 1675. copies the same mistranslation, quoting the Year-book, Finch and Wingate. Hale expresses it in these words, 'Christianity is parcel of the laws of England.'

"It is proper for us to respect the laws which the members of the holy church have in *ancient manuscripts*, because they are the general source from which all laws are drawn. Thus, Sir, it is necessary for us to be acquainted with ecclesiastical law, and in like manner the judges of the ecclesiastical courts are obliged to understand our law: in consequence, Sir, if it can be shown to us that the ecclesiastical court has decided as a court of civil law would have done in the same

case, then we ought to deem the judgment good; but if a civil law court would have decided otherwise, the judgment of the eclesiastical court must be deemed erroneous."

"Ventr. 293. 3 Keble, 607, but quotes no authority. By these echoings and reechoings from one to another, it had become so established in 1728, that in the case of the King v. Woolston, 2 Strange, 834, the court would not suffer it to be debated, whether to write against Christianity was punishable in the temporal courts at common law. Wood, therefore, 409, ventures still to vary the phrase, and says, 'that all blasphemy and profaneness are offences by the common law,' and cites 2 Strange. Then Blackstone, in 1763, IV. 59, repeats the words of Hale, that 'Christianity is part of the law of England,' citing Ventris and Strange: and finally, Lord Mansfield, with a little qualification, in Evans's case in 1767, says, 'that the essential principles of revealed religion are parts of the common law,' thus engulphing Bible, Testament, and all, into the common law, without citing any authority. And thus we find this chain of authorities hanging link by link one upon another, and all ultimately on one and the same hook; and that a mistranslation of the words 'ancien scripture,' used by Prisot. Finch quotes Prisot; Wingate does the same; Sheppard quotes Prisot, Finch, and Wingate; Hale cites nobody; the Court, in Woolston's case, cites Hale; Wood cites Woolston's case; Blackstone quotes Woolston's case and Hale; and Lord Mansfield, like Hale, ventures it on his own authority. Here I might defy the best-read lawyer to produce another scrip of authority for this *judiciary forgery*; and I might go on further to show how some of the Anglo-Saxon priests interpolated into the text of Alfred's laws, the 20th, 21st, 22nd, and 23rd chapters of Exodus, and the 10th of the Acts of the Apostles, from the 23rd to the 29th verses. But this would lead my pen and your patience too far. What a conspiracy this between Church and State! Sing Tantararara, Rogues all, Rogues all; Sing Tantararara, Rogues all!"

Gentlemen, after hearing this statement from the pen of an educated and eminent lawyer, can you hesitate to return a verdict of acquittal? You have now a complete history of this "*judiciary forgery*" as Jefferson terms it, before you; and I am satisfied that that which originated in a *fraudulent mistranslation*, cannot, now that the fraud is detected, long retain the force of law. On this ground, then, I confidently claim your verdict.

Gentlemen, I now come to the trade argument--that it is a great hardship and injustice to hold a bookseller responsible for the contents of the books he sells.

I am a general bookseller; and so great is the competition, and so fully is my time occupied, that I have no time to spare for reading the various works in my shop, even if I had the inclination. My excellent and amiable son, before his death, and before I had any idea of this prosecution, drew up a paper for

the management of my business, by which it appears that upwards of seventy weekly periodicals pass through my hands every week, besides books and many other periodicals that are merely collected to order. Amongst them will be found every possible variety--"The Church of England Magazine," "The Sacred Album," and many others maintaining contradictory and conflicting opinions; but I do not hold myself responsible--either legally or morally--for any of them. I have no right to set myself up as a censor of the press. I sell them all--and am not responsible for any man's opinions upon an abstract or general subject. When the subject matter of a book relates to the people at large, the public alone should decide upon its merits. If the book be a good one, they will support it; if a bad one, they will condemn and reject it. This is the only proper punishment for a bad author. The line of duty I mark out for myself in that I will never sell obscene publications--works that demoralise and corrupt society--nor any attacks upon private character; and if a person comes to me complaining that his character has been falsely and slanderously attacked, I sell no more of that work. What more can be expected from a general bookseller? If the sale of a controversial book is to be suppressed, because it contains a few passages in bad taste, and of objectionable phraseology, then the sale of the Bible itself must be prohibited, for that book contains many passages far more objectionable in the present day than any to be found in "Haslam's Letters to the Clergy." I have here a list of passages from the Bible, of a highly objectionable character; but as I perceive a number of ladies in the court, I will not pollute their ears, nor shock the feelings of the Jury, by reading them. My only object in alluding to them, is to show that if the principle of selecting two or three objectionable passages from a work is to lead to its condemnation, and the punishment of the bookseller, then I might with equal justice be condemned for selling the Bible itself. On this ground, also, I claim and am entitled to your verdict.

Gentlemen, the Attorney-General has not done justice to Mr. Haslam; he has dwelt upon the passages contained in the indictment, but has left the Jury in total ignorance of the general nature of the work. In many parts of the book are to be found passages of great beauty. So far from a charge of blasphemy fairly attaching to Mr. Haslam's Letters, he uniformly declares that he rejects the Jewish Scriptures because they are *irrational*, and *dishonour* the God "that governs the universe." I will read a passage from his Second Letter, which shows the veneration he entertains for the Deity.

"But is it not monstrous, that that power which gives life and motion to millions of worlds; which guides them in their eternal revolutions in the boundless ocean of space, and which preserves them in everlasting order and harmony; is it not monstrous that that power should be represented in this ridiculous point of view? Vain, violent, and boisterous, without the least indication of any thing

rational, good, or merciful in any of his proceedings. Such a God may be the God of the Christians, but he is not the God who governs the universe. That God is no more to be compared to the Bible God, than the dazzling sun is to be compared to the glimmering light of a candle."

Mr. Haslam's work has many other passages of the same description; and the Attorney-General will see that the passage in the Eighth Letter--almost the only objectionable passage in the work--was not deliberately designed to give offence, when I tell him that the author, in deference to the opinion of his friends, has cancelled the objectionable passage, and re-written it. Now what would the learned Attorney-General have more? The object of prosecution has been always held to be preventive, or corrective, not vindictive. The object sought, then, is already attained. Mr. Haslam has anticipated your wishes by correcting the objectionable passage.

Gentlemen, I have urged sufficient, I hope, to induce you to give me your verdict; but before I conclude, I will read a passage from the works of Dean Swift, which is worthy of your profound attention. "Whoever," he says, "could restore, in any degree, brotherly love among men, would be an instrument of more good to society than ever was or will be done by all the statesmen in the world."

Gentlemen, let us commence the glorious work to-day. I will tell you how you can do more towards spreading brotherly love among men, than all the statesmen in the world will be able to accomplish. Say to the Government, by your verdict, the publication of opinions shall be free. This will spread brotherly love among men; for what is it that prevents brotherly love from dwelling among men? The odious principle of coercion. I do not believe the Government wish to follow up these prosecutions if they can avoid it. They have a precedent, then, in the case of Sir Robert Peel. Mr. Carlile was in prison nearly *seven years*, and many of his shopmen were imprisoned for various terras. Did such vindictive persecutions change their opinions, or stop the sale of the works prosecuted? Quite the contrary. The individuals became confirmed and strengthened in their opinions, and all the prosecuted works are now on sale in every bookseller's shop in London. The public began to consider them martyrs, and Sir Robert Peel and the Government of that day saw the injustice and cruelty of such proceedings, abandoned all prosecutions, and liberated those whose terms of imprisonment were unexpired. Surely those now in authority are not the men to recommence these prosecutions for matters of opinion; and my quarrel with them is, that they have not the moral courage to reply to the taunts of the Bishop of Exeter, by alluding to this case of Sir Robert Peel's Government; and boldly declaring that henceforth public opinion shall be the only censor. Abolish that hateful principle of coercion for matters of opinion, and mutual toleration, respect, and brotherly kindness, will henceforth prevail.

Gentlemen, Christianity gives no sanction to persecution. The religion of Jesus, rightly understood, is a practical and benevolent system. It is founded on two great commandments, love of God and love of Man. The *first* commandment, in fact, resolves itself into a practical observance of the *second*; for it is expressly declared that, "*If a man say, I love God, and hateth his brother, he is a liar: for he that loveth not his brother whom he hath seen, how can he love God whom he hath not seen*?"(1) Recollect, Gentlemen, "*Love worketh no ill to his neighbour.*"(2) Jesus encourages all men to think for themselves. This is his exhortation--"*Why, even of your own selves, judge ye not what is right?*(3)" But while he has encouraged the exercise of mind, he has not made eternal happiness to depend upon *belief* but upon their *actions*; and the great evil of society is attempting to coerce people into the belief of that which they cannot believe--a system to which, I hope, your verdict to-day will put a stop.

1. 1 John iv.; 20,
2. Rom. xiii.; 10,
3. Luke xii.; 57

Gentlemen, the Founder of Christianity, in his parable of the Last Judgment, tells us distinctly that men are to be judged by their *actions* and not by their *opinions*; for he describes himself as inviting the righteous to inherit the kingdom prepared for them from the foundation of the world: "For I was an hungered, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me." He then represents the righteous as saying, "Lord, when saw we thee an hungered, and fed thee I or thirsty, and gave thee drink? When saw we thee a stranger, and took thee in? or naked, and clothed thee? Or when saw we thee sick, or in prison, and came unto thee? And the King shall answer, Inasmuch AS YE HAVE DONE IT UNTO ONE OF THE LEAST OF THESE MY BRETHREN, ye have done it unto me." He then represents himself as denouncing the unrighteous for giving him no meat, nor drink; for not clothing him when naked, nor visiting him when sick; and when they desire to know when he required these things, and they did not minister unto him, he replies, "Inasmuch as ye did it not to one of the least of these my brethren, ye did it not to me." Here, you perceive, there is no particular belief enjoined, none condemned. All men are to be judged by their actions--not by their belief.

Gentlemen, I have now urged all that I deem necessary to ensure an acquittal. I hope you will consider well the consequences of your verdict, and reflect

upon the wickedness and impolicy of tearing a man from his family, for selling a book in the ordinary course of his business. If I have said anything in the course of my address to raise a prejudice in your minds, I hope you will discard it, and do justice by pronouncing an acquittal.

The Attorney-General claimed his right of reply. He commenced by observing that the Defendant, in his very long address to the Jury, had not advanced anything that would call for many remarks from him, so that he should occupy bu ta very small portion of their time. The Defendant had contended that the blasphemous attack on our holy religion, which they had heard read, was only free inquiry; and had taunted the Government, and himself, who desired the extension of useful knowledge, with having prosecuted this book. But was this book of Haslam's useful knowledge? The Defendant said, Why not answer it? But he, the Attorney-General, contended that it could not be answered. The only way to do with it was to prosecute it. This publication--for the sale of which the Defendant was indicted--was not fair argument and inquiry, but blasphemous invective. The Defendant accused him of not objecting so much to the matter of the publication, as to the price at which it was sold. Not withstanding what the Defendant had said on this point, he, the Attorney-General, contended that the low price at which it was sold made the publication doubly mischievous, as it caused it to circulate among the working classes of society, who were from their habits, incapable of thought or discrimination; their time was so entirely occupied that it was impossible they could devote sufficient time to reading to guard themselves against the evil tendency of such works; while the Jury, and men in their class of life, were, from their education, furnished with an antidote to the poison. If attacks on the Scriptures were to be permitted, what was to prevent the pious feelings of the community from being outraged? Suppose a man were to carry a board through the streets on which was inscribed in large characters, that "Christ was an impostor." Could it be tolerated? Yet this, according to the Defendant, was only free inquiry! Again, suppose any one preferred a republican to a monarchical form of government, and was to excite and recommend the substitution of the one for the other by force of arms, inciting, by inflammatory appeals, the people to murder the Government and the Queen--yet this would be, according to Mr. Hetherington, only free inquiry! The Defendant had said that Mr. Haslam was a Socialist; now the Socialists held an opinion that marriage was an institution that ought to be abolished. If a man, under that plea, were to recommend the seduction of his neighbour's wife or daughter--would any one contend that such opinions should be published with impunity? yet the Defendant considers this the free investigation of opinions; and to prosecute a blasphemous publication, he says, is to prevent freedom of opinion. No one wished to interfere with Mr. Hetherington's private opinion. The policeman, when he went to Mr. Hetherington's shop

to purchase the numbers, did not inquire as to his particular belief. If there were persons so unfortunate as to disbelieve the Scriptures--which were the foundation of our holy religion--the law did not interfere with them so long as they kept their opinions to themselves, and did not publicly attack the authenticity of the Bible. Mr. Hetherington had spoken of the effect of prosecution in extending the sale of such publications, alluding particularly to the *Poor Man's Guardian*; but he, the Attorney-General, called upon the Jury to do their duty by bringing? to punishment those who outraged the law, that others might be deterred from offending. If the Jury looked at the immoral tendency of such writings, and the doctrines of non-responsibility laid down by Mr. Hetherington, who declared that he was neither responsible for his belief, nor his actions--

Mr. Hetherington here interrupted, declaring that the Attorney-General was acting most unfairly towards him. He never used such language, but quite the contrary; what he maintained was, that he was not responsible for his *belief* but that he *was responsible for his* actions. If he injured a friend, a neighbour, or a fellow-citizen, he was amenable to society for the injury done. The Attorney-General, he contended, was not replying to him, but perverting his arguments and misrepresenting facts.

Lord Denman said that he agreed with the Defendant in the first instance, and therefore he thought he was justified in putting the Attorney-General right; but the Attorney-General, he thought, was entitled to make any remarks upon facts which came out in evidence.

Mr. Hetherington (with great vehemence).--But he is mis-stating facts, and making statements calculated to mislead the Jury.

Lord Denman.--You must not interrupt.

The Defendant.--But my liberty is at stake, and I will speak. (Applause at the back of the court, which was instantly suppressed by the officers.)

Lord Denman.--You shall be heard in correction of anything you may think a misrepresentation, afterwards; not in reply, but merely in correction.

The Defendant.--Thank you, my Lord.

The Attorney-General observed, that the Defendant denied being the publisher, but he would convince the Jury that he was, by reading the title to them. He then read the title of the book--omitting the publisher's name, and reading the name of the Defendant only, till Mr. Hetherington insisted upon his rending the whole title as follows:--"Letters to the Clergy of all Denominations, showing the Errors, Absurdities, and Irrationalities of their Doctrines. By C. J. Haslani. Fourth Edition. Manchester: A. Heywood. 56 and 60, Oldham Street. London*; Hetherington, 126, Strand; Cleave, Shoe Lane, Fleet Street; Watson, City Road, Finsbury; and J. Guest, Birmingham; and all Booksellers in Town and Country."

The Attorney-General then proceeded.--Conceive, gentlemen, a servant or

an apprentice reading this work where the institution of private property was said to be the great evil of society--would he feel any compunction at appropriating the goods or money of his employer to his own use? Would he not find arguments in this work to justify him in his iniquity? Mr. Hetherington had taken credit to himself for disinterested motives, but he feared that he was actuated by mercenary motives--looking only to emolument--careless of the effect it might have on the morals of the unthinking working-classes.(1) He called upon the Jury, by the oaths they had taken on the Holy Gospel--which this book blasphemously attacked--to consider the effect of a verdict of acquittal, and to do their duty to the public. By such a verdict they would license the most infamous attacks on the Holy Scriptures, and would loosen the bonds which held society together.

> 1. This comes well from a gentleman who descended from his high professional position to attend at the Old Bailry, for a fee of £. 100, to plead for a man charged with murder.

Mr. Hetherington explained that it was the custom of the trade to place the name of any bookseller, with whom the real publisher did business, on the title-page of the book, and that his name had been so placed by Mr. Hey-wood, of Manchester, the real publisher, without his knowledge. Mr. Heywood was the original publisher; he received no punishment, and was now at liberty.

Lord Denman, in summing up, observed, that the law considered the vendor of a work the publisher of it, and that consequently he must be held responsible. It had also been constantly laid down that blasphemy was an offence at common law. In the Defendant's defence, TO WHICH HE HAD LISTENED WITH FEELINGS OF GREAT INTEREST, AYE, WITH SENTIMENTS OF RESPECT TOO, he had complained of the hardship of a general publisher being held responsible for the contents of all the works he might sell, but he had himself answered that argument by the conduct which he stated he pursued with regard to obscene and personally libellous publication, and from the title-page of this work it was scarcely possible not to be, in some measure, aware of its contents. Discussions on a subject, even the most sacred, might be tolerated when they were conducted in a fair spirit; but when appeals were made not to reason but to the bad feelings of human nature, or where ridicule or invective were had recourse to, it could not be considered discussion. As to the impolicy of these sort of prosecutions that was a question with which they had nothing to do; the only question for them to determine was, whether the publication in question was a blasphemous libel, and whether it had been published by the Defendant.

The Jury immediately returned a verdict of Guilty.

The Attorney-General prayed the immediate judgment of the Court.

Lord Denman.--I think the passing sentence had better be deferred, until we have had the opportunity of considering the subject.

The Defendant then retired, and the Court adjourned.

OBSERVATIONS

THE renewal of a series of Government prosecutions for alleged blasphemy, will justify me in accompanying the publication of the foregoing trial with a few words of comment.

The points upon which I deem it my duty to animadvert--are the conduct of the Government, the Attorney-General, and the Jury.

I consider that the Government have acted towards me, in this prosecution, in a very unjustifiable manner. They first placed Mr. Cleave on his trial for selling the fifth, eighth, and thirteenth numbers of Haslam's Letters. He pleaded *Not Guilty*, but was convicted (after an able and convincing speech from his-Counsel, Mr. Chambers), by as stupid a Jury as ever sat in judgment on an honest man. The Judge sentenced him to four months' imprisonment, and a fine of £20. Such was the force of public opinion, however, on the injustice and impolicy of such prosecutions, that Mr. Cleave was liberated, upon paying the fine, after five weeks' imprisonment.

The trial of Mr. Heywood, the original publisher, came next. His known integrity and respectability had attached to him many influential friends, who represented to the Government the folly and injustice of these proceedings, and Lord Normanby at length yielded to their importunities, by agreeing, on condition that he pleaded guilty, that Mr. Heywood's prosecution should proceed no further. Mr. Heywood complied, and was left at liberty, on entering into his own recognizances, to appear when called upon.

Public opinion unequivocally declared that such prosecutions were indefensible, and it was very generally believed that the Government would abandon them from a conviction of their injustice and impolicy. Instead of which they proceeded against me for selling the same numbers of the identical work that Messrs. Cleave and Heywood had been prosecuted for selling, though the punishment of Mr. Cleave was remitted, and the Government compounded blasphemy in the case of Mr. Heywood. To injure and annoy honest and industrious tradesmen, because the author of a book has in two or three instances expressed his ideas

in vulgar and objectionable phraseology, is unworthy of an enlightened Government. I feel pity for the Jury who could ignorantly pronounce a verdict of guilty against a man who never wilfully injured a fellow-creature, merely because he had sold a book that combated the established opinions of the day; but I entertain very different sentiments against the Government that could institute and carry forward prosecutions of this nature, when, from their superior knowledge, they must be fully aware of the iniquity of their proceedings. They encourage "reason and free inquiry," while it favours their objects; and they persecute and ruin all those, who, by the exercise of reason and free inquiry, arrive at conclusions adverse to the established opinions of society. The time has passed, however, for a renewal of persecution for matters of opinion. No Government can stand that will attempt it; and I tell Her Majesty's Government, that when they interfere with the religious or anti-religious opinions of the people, they step out of their province,--and to inflict punishment upon either the original publisher or the general bookseller, who supplies all works to order, for the opinions contained in the works they respectively publish or sell, is an odious act of tyranny that good men of every opinion should denounce and oppose. I, for one, will never sanction or submit to such tyranny. Whether any and what sentence will be passed upon me I know not; but I have made up my mind that I will maintain, at all risks, and under every privation, to the utmost extent of my ability and means, the right of all men to freely publish their opinions upon every subject of general interest--whether social, political, or religious; aye, or anti-religious,--and if the Government would receive a suggestion from me, I would suggest to them to take their stand on this glorious principle--perfect freedom is the formation AS PUBLICATION OF OPINIONS FOR EVERY SECT AND PARTY. That is the most effectual way to elicit truth upon all subjects; and I would respectfully ask them, whether they ever knew the truth injure any sect or party that was disposed to act honestly?

I hope the Government will reflect upon the injustice and impolicy of this new crusade against the free expression of opinion, adopt my suggestion, and abandon all prosecutions against those who honestly controvert the received opinions of society.

Having now expressed my feelings with regard to the conduct of the Government, I must say a word or two respecting the behaviour of the learned Attorney-General towards me, on my trial. He made very few observations in opening the case, but reserved himself for his Reply; a privilege which I think he was not entitled to, as I called no witnesses. Had I anticipated he would have claimed the privilege of reply, and abused it in the shameful manner that he did, I could have overthrown, by witnesses, the false impression which he so unjustly laboured to establish on the minds of the Jury--that I was the publisher of the work, because my name was affixed to the book first of the London agents. What

is the object of a reply? It is to answer the facts and arguments adduced by the Defendant; to show that he has reasoned illogically; and to point out to the Jury, succinctly and clearly* the points in which he has failed to answer the charge laid against him in the indictment. In addition, however, to this base attempt to hold me up to the Jury as the original publisher, the Attorney-General obviously sought to make the Jury believe--(and there is every reason to think that he triumphed in this his unjust attempt to injure me)--that I claimed immunity not only for my belief but my actions, When I insisted upon setting him right, by showing him the utter falsehood of his assertion, in which I was supported by Lord Chief Justice Denman, he treacherously aimed at fixing upon me the consequences of doctrines to which I had not even adverted in my speech, and which had no reference whatever to the subject then before the Court. He basely insinuated that I was virtually claiming immunity for all acts of aggression--such as robbery, murder, seduction, unjustifiable rebellion, and assassination of the Queen; striving to raise in the minds of the Jury a confusion between the right of freedom of opinion and the wrong of licentious action! This, too, was slanderously repeated, after my open appeal to the Court against such malignity; and this the learned Attorney-General calls availing himself of his privilege of reply! I was not allowed to answer these falsehoods of the Attorney-General; though, as the accused party, I was in justice, if not in law, entitled to every opportunity of making the truth apparent to the Jury.

As to the Jury--What shall I say of them? I can only pity men who exhibited such woful ignorance and imbecility as to be led away by misrepresentations that had not even the appearance of truth. Let me ask the Jury one simple question. They were bound by their oath to give a true verdict according to the evidence. Now let me ask them, was there any evidence of BLASPHEMY?

The evidence adduced merely proved the sale of a certain book. There was no evidence that the contents of the book were blasphemous. This question--(that is to say, the very question in dispute--the question whether or not there was any blasphemy)--this question was decided by Judge and Jury without an iota of evidence, without even an attempt at any evidence bearing Upon it. The opinions of the Judge and Jury decided the question of the indictment---Was there blasphemy or no! There was no evidence at all upon it. Gentlemen of the Jury--common and special--was your verdict in accordance with the EVIDENCE brought forward for your enlightened consideration--was your verdict in accordance with the terms of your oath? The verdict to which I was entitled from honest and reasoning men was the following:--either a direct "Not Guilty of blasphemy"--or this, "Guilty of selling a certain book concerning the nature of which wc=e have had no evidence"--matters of opinion not being, in fact susceptible of evidence.

H. HETHERINGTON.

I cannot close these Observations without tendering my best thanks to the editor of *The Sun* for the zeal and ability with which, in a succession of leading articles, he defended the right of Free Inquiry and the Free Publication of Opinions. The *Morning Chronicle* published an impartial report of the Trial, and gave a good leading article on the subject. The *Morning Advertiser* and the *Weekly Chronicle* also published a fair report of the Trial. The *Weekly Dispatch* and The *Statesman* are both entitled to thanks for their advocacy of Truth and Liberty, in reference to the principle contended for in my Defence. The three Letters of Publicola, in The *Weekly Dispatch*, are invaluable; and I regret that I cannot find room for the whole of them in this pamphlet, without considerably enhancing its price and defeating my own object of extensive circulation for my Trial. They are worthy of a distinct publication. I can only fill up the space I have left by the insertion of the following excellent article from *The Sun* of Friday, December the 11th, 1840, and Publicola's Letter to Lord Chief Justice Denman.--H. H.

Extract from The Sun Newspaper

We brought evidence yesterday to show that the suppression of objections to the Scriptures by penal enactments is tyrannical, unjust, and absurd, and that the law is partially administered. If we return to the subject, it is from a deep sense of its almost immeasurable importance. Our whole internal A policy, nearly, is framed with a view to support the Church. The Church is founded, or rather pretends to be founded, on the Bible; but we are now told by the decision of the Jury on Tuesday, that it is a crime to object to its statements. The happiness of society, then, is to be chained and bound by principles and doctrines, which society must not examine; for if men must not object, what is the use of examination?

"We see disorder pervading every part of society. The poor are set against the rich, and the rich are zealously engaged in oppressing and coercing the poor. Crime increases, and though more churches are building, religion is decaying. The remedies suggested for our disorders, within the bounds sanctioned by the Church, are more numerous than the disorders themselves; but though confusion and anarchy threaten us, the law forbids men to say aught against principles which our rulers have followed, while society has been brought into its present condition.

"What the law now decrees against what it calls blasphemy, it decreed, not two centuries ago, against witchcraft. It now denounces the former as displeasing to God; it then denounced the latter for the same offence. Men and women were in those less humane days burned for displeasing God, while now they are only fined and incarcerated. By the progress of knowledge, lawyers, both barristers and judges, have been compelled to give up that portion of the perfection of human reason, and the law against witchcraft has become obsolete. If our view of the law for suppressing objections to the Scriptures, under * the name of blasphemy,

be correct, it is not more reasonable than the law against witchcraft. While no lawyer, however, will now lend himself to revive the latter or carry it into execution, there are numbers, we say it to the disgrace of the profession, zealous and eager to apply the former, at least to the penny tracts which are addressed to the poor.

"It is therefore with deep regret that we saw so eminent a man as the Attorney-General lending himself to this sorry work. We are ready to admit, as a Tory contemporary has stated, that he has done his duty, and he finds his reward in the praise of the Tories. Nor did he show, as far as we can learn, certainly not in his reply, any reluctance to perform it; people say he did it as if he had something to atone for, and was rather eager to gain the approbation of Bishop Philpotts. His labours were crowned with a success which his own party reprobate. In Westminster Hall he has triumphed, but an appeal lies from that to the world; and even the Whigs, who have heretofore denounced prosecutions for blasphemy as for witchcraft, consider that in the last resort he will sustain a terrible defeat.

"Mr. Hetherington has already suffered in body and mind, in purse and health; and probably awaits with apprehension the sentence, which may consign him to prison and ruin. He is down-stricken by the law; but those who have read his defence, and prefer reason to legal fictions, will place him far above the triumphant Attorney-General. He made an admirable pleading for free inquiry, which plain John Campbell instituted a prosecution to suppress. In his reply Sir John so far overstepped the bounds of propriety, that the Defendant would not allow him to proceed, and was supported by the Court. In a bad cause the Attorney-General used poisoned weapons. He upheld a prosecution for blasphemy, which is as ridiculous as a prosecution for witchcraft, and descended to misrepresent the accused. With our opinion of the law he was enforcing, we are bound to say that Sir John Campbell should have left such a duty to be performed by some taker of a half-guinea fee, who never got beyond the precincts of the Old Bailey. It was wholly unworthy of an eminent lawyer, who has risen into political power as a professed friend of free discussion. The slaves to lust have some pleasure for their punishment, but the servants of the grimgribber of Westminster Hall, who sacrifice present fame to a sense of duty to it, reap little more than disgrace for their nauseous drudgery.

"Sir John Campbell prosecuted Mr. Hetherington, in the language of the indictment, for being 'a wicked, impious, and ill-disposed person, having no regard to the laws of this realm, but most wickedly, blasphemously, impiously, and profanely devising and intending to asperse and vilify that part of the Holy Bible which is called the Old Testament.' Now, having no respect whatever for the fictions of the law, we have no hesitation in branding such accusations of a publisher

as a monstrous tissue of falsehoods, and to affirm that it is a disgrace to any man who has the least respect for truth, to defend such a charge. We care not about its being the customary language of the law, for truth and men's liberties are not to be sacrificed by and for such absurdities.

"Further, this said aspersing and vilifying the Bible is said by Sir J. Campbell, at least such is the language of the indictment, which he used arguments to sustain, to be greatly 'to the displeasure of Almighty God.' Who knows that? What worm dares to say that the Almighty God is displeased with another worm for uttering or writing a few words.' Who is the vain and arrogant man that claims for himself the task of interpreting the thoughts of the Most High, and demanding that a man be punished for having displeased Almighty God? What name does the Court deserve which, being instituted to do justice and protect the people, punishes one of them because he displeases the Almighty? Can He not punish those who displease Him? To doubt it, to undertake to protect or avenge Him, to describe Him as displeased, while he showers prosperity and contentment on the man said to displease Him, is far more impious, more blasphemous, more dangerous to religion than anything Mr. Hetherington ever published, or Mr. Haslam wrote. Such, however, was the crime charged against Mr. Hetherington, which Sir John Campbell endeavoured to substantiate, and of which a Jury, who are as much deserving of reproach as the prosecutor, found him guilty. Such is the crime for which the Court will hereafter pass sentence, undertaking, like the Inquisition, to decide for the Almighty, and punish actions as displeasing to Him, at which He, by the course of nature, shows no displeasure.

"At the present time, when a great portion of the Whig press will support the Attorney-General or be silent, leaving *The Sun* to defend the great principle of free inquiry and free printing, as they left it to defend the same sacred and noble cause when it was assailed in the person of Mr. Harmer, we think it our duty not to be silent. As we should assail any Tory Attorney-General who had instituted such a prosecution, or carried it on, so we cannot allow it to pass unstigmatized because it has been instituted by a Whig Attorney-General. We know that the wisest and best politicians of the party deprecate such proceedings, and not the less because they will call forth in many independent journals, to the injury of the Whigs, an expression of honest indignation."

"TO LORD DENMAN, ON THE LATE PROSECUTION FOR BLASPHEMY

MR Lord Chief Justice.

"Your conduct on the Bench, upon the recent trial, 'The Queen v. Hetherington,' for a religious libel, a nominal and an impossible offence, the fiction of fraudulent bigotry, has much increased the high esteem in which you have been always held by the public. Your Lordship's opinions on this impolitic, irreligious, and thoroughly infamous species of prosecution have oft-times been expressed with the integrity and high moral courage that have ever distinguished your public life. I never shall forget the manliness with which I heard you avow from the Whig Treasury Benches, in the House of Commons, in your place as Attorney General, your detestation of indictments for religious opinions; and the House hailed you when you fairly acknowledged your deep regret that, as Common Serjeant, you had been obliged, in obedience to your oath and to the law, to impose even the smallest punishment possible upon three men convicted by an ignorant Jury of a libel on the Scriptures; and you were still more cheerfully received when you expressed your joy at the liberation of the prisoners whom you had so unwillingly punished. There was one part of your speech that did not certainly satisfy me. I respect your sense of obligation to an oath; but when you punished men whom you conscientiously believed to be undeserving of infliction, and this 'in obedience to the law,' your Lordship might have reflected, that it was not Parliamentary, but Judge-made law--'Common-law,' as it is called; and you might have acted upon the principle that if a corrupt and ignorant Judge made a law to suit the prejudices of a brutal age, a pure and well-informed Judge might reverse that law in favour of an age more humane and more enlightened. I recollect with great satisfaction that when, in the case of Lord Langford, the Counsel, Mr. Thesiger,

asked a witness (Mr. Nathan, a Jew) 'what religion he was of?' your Lordship expressed your strong displeasure; and, under your Lordship's sanction, the witness refused to answer the interrogatory, and treated both the query and the querist with the utmost contempt; and the whole Court and audience seemed strongly to approve of the result. In the recent trial your Lordship's conduct was a contrast to that of your immediate predecessors on the Bench, Lords Tenterden and Ellenborough, the last representatives of a most disgraceful school of political, prejudiced, corrupt Court Judges. You did all in your power to induce the Jury to acquit the accused. I am now credibly informed that the Attorney-General had the same object at heart; and having, intentionally, gone in a most slovenly and unimpressive manner, through his technical duty, he was abashed and mortified when he heard the verdict of guilty. Familiar as he must be with the extreme ignorance, stupidity, and corruption of Juries, on such occasions, he was still surprised at such a verdict. I am willing to give him credit for these common reports in his favour; but should the Government be so infatuated as to bring the defendant up for judgment, the country expects of you, my Lord Denman, that the sentence will be nominal, and that it will be accompanied by your reprobation of all such trials.

"If it be true that hope is the last passion that leaves a man, equally true is it that the spirit, the accursed spirit of religious persecution, is the last passion that man deserts, or is willing to abandon. I sincerely believe that if the alternative were put to a hundred dying men, at their last, moment of consciousness, at their last gasp of breath, whether they preferred their own future salvation or beatitude, or the persecution of man upon earth for conscientious differences of opinion on religious subjects, full ninety-nine out of the hundred would choose the latter, on the ground of its being the turnpike-road to the former, and from the inherent delight in the spirit of religious intolerance. Fanaticism is the primeval curse of our nature. From its first victim Abel, to the present hour, it has raged through the human race. Moral sins and physical or corporeal diseases in the course of ages wear themselves out, or can be cured by instruction or medical treatment; but the most foul, leprous, and crime-engendering of all maladies that flesh is heir to, fanaticism--call it if you please, bigotry or superstition--admits of no cure, and of little mitigation. If this hellhound were now let loose from the restraints of law, we should in one year have every gaol and dungeon full of prisoners, and in another, the fires and faggots of the olden times would be raging more fiercely than of yore, and more furiously in this country than in any other. Whatever Catholics might have been in the middle ages, there has been more of religious persecution in Great Britain and Ireland, in the last century, than in all the Catholic countries of Europe within the same period. On the Continent the spirit is on the wane; in England it is on the increase.

"My Lord Denman, in the very abstraction of our individual nature, and of the nature of society, a court of justice cannot take cognizance of opinions. Its functions are confined exclusively to facts. Can any two classes of things be more distinct and opposite? The one is fixed, the other perpetually varying. Law, cultivated reason and common sense have rescued subjects of opinion from judicial interference, except with respect to politics and religion, the two which of all others most need the exemption. The interference of courts of justice with religious opinions had immensely decreased, and it is now reviving; but it is in your Lordship's power to annihilate it by passings nominal sentence on the defendant. The effects or results of a fact are ascertainable; those of an opinion are but speculative and uncertain. There is not in existence, there never has existed, and probably never can exist, a religious opinion that has not been deemed blasphemous, and of a destructive tendency to morals and social peace, by its opponents, who, if they had been strong enough, have relied upon the arguments of torture and death, or punishments as severe as society would permit.

"My Lord, legism, or jurisprudence, are sufficiently understood to render it indisputable that punishments cannot be vindicatory or retrospective, and less than either, vindictive. All religious prosecutions seek only for revenge. The object of a legal punishment relates solely to the prevention of the offence. If a sentence against Mr. Hetherington cannot effect this object, it cannot be justified. Will a sentence alter his opinions? will it alter conscientiously that of any class or single member of society? and, above all, will it stop or check the dissemination of his doctrines? The two first points are nugatory; the last is defeated in its pretended object. All history and experience prove that persecution, let its form or degree be what it may, increases that which it is meant to destroy. Whether the tyrant be called Pope or Inquisition, Attorney-General or Court of Queen's Bench, the principle and the result are the same.

"Every religion, church, and sect, that exists or is defunct, in Europe and in Asia, from the earliest record, has had at its origin, and through its infancy, to encounter obloquy and persecution. The Jewish religion received animation and vigour from the contempt and cruelties of surrounding polytheists, and the Jews sought in one God a protection from the horrors which had been inflicted on them by the worshippers of many; and well did this atrocious people revenue themselves 011 their former persecutors, and this by assuming their own claim to the right of punishing men for differing in opinions. The progress of Christianity was accelerated by the Jews, in their attempts to crush it by inflicting an ignominious and most cruel death on an innocent individual, under that absurd fiction of blasphemy, in the foul name of which your Lordship is now called upon to punish, against your will, another innocent individual. If blasphemy has any meaning, its definition must be--'a resistance to a predominant priestcraft.' Ev-

ery religion, at its commencement, is but a confluent mass of blasphemies to the previously-established religions; and persecution is the reverse of annihilation, Where would Protestantism have been but for its persecution by the Catholics, and *vice versa*? From the dawn of Protestantism in England, under Wycliffe, and the burning of the first Protestants by the priests, in the reign of the Hero of Agincourt (what a hero!) down to the death of Mary, English Protestants were tortured, burnt, hanged, and punished, and yet the religion spread. Throughout Germany the same effects proceeded from the same cause. Our English persecutions of the Catholics in Ireland have been long, incessant, and too dreadfully cruel to reflect upon, and yet Catholicism has increased under them. We have not one respectable sect in England that has not arisen in despite of persecution, and increased by means of it, and these, with hundreds or thousands of other instances (for history abounds with them), prove that persecution or punishment does not, and cannot, effect the object in view; and that, consequently, punishment cannot be justified by its only legitimate principle of justification--utility. It is madness to punish for an offence which must be increased by the very nature of the punishment. Formerly, in punishments for blasphemy, men, women, and children were burnt and put to every variety of torture, for the good of their souls--now, we substitute for the word soul, the phrase--'*the security of society*,' or other jargon equally nonsensical. The Court of Inquisition was, and is, wherever it exists, more honourable than the Protestant Court of Queen's Bench, for the Inquisitors tortured and destroyed for the sake of the soul, but our Courts punish only for the profit of the priest. The old plea, the impudent and barbarous plea, of 'Benefit of Clergy,' is annulled by law, and yet an indictment for blasphemy is nothing more or less than a process for the 'Benefit of Clergy.' Thus, my Lord, have I humbly attempted to prove that your punishment of this individual will be in strong and violent opposition to the principles, opinion, and feelings which you have avowed on the Ministerial Benches of the House of Commons; and if the Whig Administration is so infatuatedly base as to call the defendant up for punishment your Lordship will be in the unenviable position of passing a sentence, as Lord Chief Justice of England, against the nature, principles, and objects of which you have expressed little less than abhorrence in the character of Her Majesty's Attorney-General in the House of Commons. At that period, my Lord, you were the freely and most honourably chosen representative of one of the largest and most enlightened constituencies of Great Britain--the town of Nottingham--and your constituents expressed no dissatisfaction at your speech. Is there not a sympathy between Nottingham and other large, and populous, aud enlightened towns and cities, and between them all and the general population of the empire? I have likewise, my Lord, shown, to the best of my very humble abilities, as a legist, that any punishment inflicted on this individual, violates the only principle on which

all punishments can be justified--the prevention of the offence--if it be one.

"What, in other respects, will be the effects of this brutal prosecution? Burn Mr. Hetherington alive,--slowly roast him, torture him by every device, hang him, quarter him, and stick his head on Temple-bar, and his quarters on the gates of four of our principal cathedral towns, as in all such cases used to be the practice of our most pious Christian ancestors in 'the good old times'--or let your Lordship pass the most lenient sentence on him, and what will be the result? Will any thing be proved, disproved, strengthened, or invalidated, by either mode of punishment? If divines or laymen argue upon the Scriptures *in toto* or in parts, *en masse* or in detail, could any of the disputants establish his point by arguing that Mr. Hetherington or Mr. Snookes, for the names are indifferent, was or was not in gaol, or that the sentence was six days' or six months' incarceration--how would the case stand syllogistically? A asserts that the Bible ought to be burnt--A is not prosecuted--ergo, the Bible ought to be burnt. B asserts that the Bible ought to be burnt--B is prosecuted--B is acquitted by the Jury--ergo, the Bible ought to be burnt. C asserts that the Bible ought to be burnt--C is prosecuted--C is found guilty--ergo, the Bible ought not to be burnt. Again, D, E, F, and G, are prosecuted for saying that the Bible ought to be burnt. They are all found guilty under different Judges, and their sentences vary from three, six, twelve, and eighteen months' imprisonment. Here the public mind is in utter confusion between the cases of A, B, and C, and between the ratios of punishment inflicted on D, E, F, and G, I have gone to the extent of the musical gamut. Ratios might be calculated by arithmeticians aud algebraists. Thus--'As burning the Bible is to the acquittal of B,--so is not burning the Bible to the sentence on D, E, F, or G." Really, my Lord, as a man of the most cultivated intellect, you must see the monstrous absurdity, the atrocious cruelty, of subjecting opinions on Scriptures to 'Trial by Jury.' If opinions on a book are to be brought before a Jury, so might its author. I speak in no disrespect of Scriptures, but I speak in utter disgust and abhorrence of bringing them before Juries. What, in fact, does a verdict of 'Guilty' or 'Not Guilty' amount to, in case of an opinion on the Scriptures? The ignorant Jury men unwittingly set themselves above the Scriptures, and tyrannise over the Deity himself. The impiety lies all in the Jury, and not in the accused. The trial my Lord, proceeds entirely on the conceded point that the Scriptures are the word of God; a word is an empty, unintelligible, worthless sound, except by the interpretation put upon it; and if the Jury will be the interpreters, they are the authors of the word, and usurp the powers of the Deity. God may say 'this is my word and commandment,' and a Jury replies, 'the substance utility, intelligibility of a word depend entirely upon the meaning attached to it, and we Jurymen will put and make all other men put what construction we please, upon it, under pains and penalties, so that the word is not yours, but ours.' A Defendant may argue, 'my construction is a matter

between my conscience and my God.' The verdict replies, 'God has nothing to do with it; your construction is entirely a case between your conscience and us Jurymen, stock-brokers, bill-brokers, pawnbrokers, gambling-house-keepers, and, peradventure, keepers of houses of a still worse description.' My Lord Denman, the manly character of your mind will make you fearlessly grapple with this important subject, and will induce your Lordship to feel that I have as fearlessly and as honestly stated the merits of the case. Pause, my Lord, before you ruin, and almost torture a man, for whose defence you have expressed respect from the Judgment-seat, and this by a sentence for the nature and principles of which you have publicly and officially declared an abhorrence.

"Our laws, Lord Denman, lay down a principle that every man is presumed to be acquainted with the business, profession, or study to which he belongs, or to which he has devoted himself. The converse--a most rational converse, is that he is unacquainted with what he does not belong to, or has not studied; or, in plain terms, that he is unacquainted with that of which he knows nothing. Sir Isaac Newton would have been a most ignorant Juryman upon a case resting upon the details of business in the butter trade of Cork; and a Mr. Jones, in that trade, would be an equally ignorant Juryman on a case involving the complex observations and abstract calculations of Sir Isaac's Observatory. Shakspeare, as a Juryman, would have been puzzled to determine a disputed point of commerce; and a tradesman would be as equally perplexed in deciding a point upon the machinery of Arkwright, or the steam-engine of Watts. In the present case, a man named Haslam, (but the name is immaterial, for I apply myself to abstractions and not to individuals,) has devoted himself to the study of a subject. He is evidently a man of strong mind, of great knowledge, and of the most honest intentions. On many points I differ with him, but individual or public difference is not the case at issue. His very able work is submitted, not to the public mind, but to 'Trial by Jury;' and its merits or demerits are determined upon by merchants, brokers, tradesmen.

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"My Lord Denman, the Attorney-General, tried, in the usual slang of his profession, or rather of his office, to attach moral imperfection and social dangers to speculative points of theology-to points of creed. We have now on our Bench, including Ireland and Scotland, Catholic Judges, Judges belonging to the Church of England, to the creeds of the Baptists, Anabaptists, Unitarians, and to the no-creeds of the Deists, and yet what barrister, attorney, or client, ever complained of a Judge on account of his creed or his construction of the Scriptures? In Ireland we have Catholic Judges, in Scotland Presbyterian, and in England Judges of the Clutch, and of every dissenting sect, and yet, when in 'Term time,' a new Trial is moved for, on account of a misdirection of a Judge, who ever heard of the misdirection lying attached to the Judge's creed? The Solicitor-General of Ireland is a Catholic, the Attorney-General of England is a Presbyterian (if he has any religion at all), and the Solicitor-General of England is of the Church (the refuge of all sceptics), and what does this amount to with respect to the discharge of their duties? Lord Chancellors Shaftesbury and Thurlow, and very many others, were avowed Deists, and yet in moving the House of Lords to set, their judgment aside, their creeds or opinions were never put upon the briefs.

"Let me suppose, my Lord, that our most pious Monarch, George the Third, had indicted David Hume, the most perfect, of unofficial characters; or Adam Smith, a great benefactor of his species; or Edward Gibbon, the most illustrious of historians, for their Atheism or Deism; and let me state the fact, that the pious Monarch bestowed upon them all very good, and, in one instance, very confidential employments, what difference does this make? in either case the men, their public functions, and their doctrines, would have been equally at issue with public opinion at the present day. The merchant, in reading Adam Smith; the philosopher, in studying the superior works of Hume; and the scholar, in tracing Gibbon's magnificent outline and correct details of Roman history, never condescend to inquire whether the authors were patronised by a pious or an impious monarch, or whether they were indicted by a Presbyterian, Episcopalian, or Atheistical Attorney-General--the slave of an order from the Secretary of State's office.

This species of scrutiny expired years ago, and why should it be revived?

"My Lord Chief Justice Denman, the eyes of the country, and of foreign countries, are upon you. The issue of your sentence is the same, except to the individual; for, liberate him, you respond but to the voice of all enlightened men throughout Europe; incarcerate him, and by passing an inhuman sentence upon an innocent man, you enforce a judgment that you have promulgated in Parliament to be abhorrent in principles and feelings, and this will produce a powerful redaction.

"PUBLICOLA."

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